UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/2002/NGO/9
24 January 2002

ENGLISH AND FRENCH ONLY

COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 11 (e) of the provisional agenda

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: RELIGIOUS INTOLERANCE

Written statement* submitted by the Romanian Independent Society of Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. * 0 0 2 0 1 0 2 7 0 *

ENG

1. Founded in 1990 based on the Romanian legal provisions regimenting the right of association, SIRDO has the purpose to defend and promote human rights and fundamental freedoms according with the principles of the UN Charter and the universal and regional conventions and treaties Romania is part to. In its programs and activities SIRDO monitors both the respect and the protection of individual as well as collective rights of minorities in difficulty, subjected to intolerance and discrimination.

2. The memoirs written by the minority historical churches, the Romanic Church United with Rome - Greek-Catholic, the Romanic-Catholic Church, the Reformed Church, the Unitarian Church, the Evangelic Church, reveal that "the existent discrimination and the lack of rights for minority churches in Romania can be proved, regarding the mobile and immobile goods confiscated with or without title during communism". Thus, Romanian, Hungarian and German origin bishops of the minority churches ask the Romanian Parliament end discriminations by normative acts, eliminate the existent restrictions on minority churches by urgent ordinance no. 94/2000 and apply the principle *restitutio in integrum* in the legal process. Also, the bishops of minority churches ask the Romanian government "to adopt a normative act for the complete and integral restitution of buildings taken over by the Romanian state abusively, so that international obligations and constitutional norms are respected.

3. The practice of those normative acts which tried to offer partial or incomplete solutions for restitution increased the degree of discrimination being the main cause of repeated conflicts between the Orthodox Church detaining most part of the confiscated goods during communism and the minority Churches asking for the respect of their right to property, integral restitution and rehabilitation. The lack of intervention from the state to sanction administrative authorities preventing or refusing the restitution disposed by legal documents affected both the restitution process of church confiscated goods and the situation of the confessional education at all levels, types and profiles.

4. Of the documents revealing the abusive measures of the communist power installed 50 years ago in Romania, we can mention that Law 174/1948 confiscated the 135 schools, 20 churches, 7 houses, 42 cultural homes, 175 buildings meant for hospitals and asylums. Also abusively taken over were church archives and objects, 9022 square meters of farming area and 6000 square meters of woods.

5. Even if the Romanian Constitution has clear provisions on the religious rights (Article 29-Freedom of conscience; according with constitutional provisions, the organisation of cults is free; it is concretised by its own status, under the law. By consecrating the separation of the state from the church, the Romanian Constitution guarantees the autonomy of religious cults (align 5), but obliges the state to support cults. At the same time, the Constitution imposes a climate of tolerance and mutual respect between adepts belonging to the various religious cults, forbidding, within relationships between cults, any forms, means, acts or actions of religious warfare), the inconsistency of the national legal framework prevents the minority Churches from exercising their cult freely. We chose for example the situation of the Romanic Church United with Rome, the Catholic-Greek Church, as it has a special situation by the fact that during communism, unlike other cults partially dispossessed of values and properties, this Church was totally confiscated the patrimony, its activity being forbidden by law. We can present the following details:

- By Decree 358/01.12.1948, the Romanian Government outlawed the Greek-Catholic Church, confiscated its entire patrimony in favour of the Orthodox Church

and thus started a savage persecution against servants of this church, who were arrested, tortured, assassinated;

- In December 1989, Decree 9/31.12.1989 abrogated the communist incriminating decree, granting the Greek-Catholic Church the right to legal existence;
- Decree 126/25.04.1990 stipulates that the Greek-Catholic Church is free to "organise and function in accordance with the general legal regime of cults in Romania" and is given back its goods, thus instituting a mix Commission formed of representatives of the state and of the Greek-Catholic Church. The provisions of this Decree were applied on an unlimited period, being unfunctional in achieving the main purpose, naming giving back the goods. Besides the fact that the state representatives refused to put on the list most of the goods confiscated, they prevented, by abusive measures, giving back certain values. Thus, the situation became such that the Bishop's Palace in Baia-Mare be sold by the State Ownership Fund to a textile factory;
- The Government Decision 466/1992 disposed giving back properties in poor state and insecure financial situation;
- Beginning with 1992, there was no legal provision to regiment giving back goods to the Greek-Catholic Church and the attitude of authorities and media was decisive on starting and maintaining conflicts between the Greek-catholic cult and the orthodox one. Thus, the Satu-Mare Cathedral, won in court since 1990 by the Greek-Catholic Cult was not given back yet and the re-possession trials have been moved in various courts in the country during the past 10 years. Due to violence started by orthodox believers of various communities many legal decisions were not applied to give back cult owning to the Greek-catholic believers. Lately, a very dangerous phenomenon leading to the prevention of restitution is the decision to demolish the cult buildings that belonged to the Greek-catholic cult. Thus, there are 10 buildings to be demolished. The Greek-catholic chapel in Baia-Mare was demolished with the support of the army the next day after the church in the locality was officialised. Also silently demolished was the building in Valea Izei. At the time, in danger are the churches in the following localities: Mihai Viteazu (Cluj County), Ungheni (Mures County), the Church of the Nicula Monastery.
- In 1948, the Greek-Catholic Church was taken 2206 churches. At present, there are in Romania a number of approximately 800,000 believers. Although an adept of the *restitutio in integrum* principle, the Greek-Catholic Church tempered its pretensions, asking for the restitution of 160 churches and the permission to have alternative service with orthodox believers in 227 churches. The results, after 12 long years of dialogue, are: the restitution of 6 churches, while alternative service was never approved anywhere.

6. Considering the situation presented, SIRDO asks for the intervention of the Human Rights Commission in co-operation with the Committee for Economic, Social and Cultural Rights and asking for the competence of the Special Rapporteur on the study of intolerance based on religion, make the Romanian Government institute the national inter-confessional dialogue by legal measures. Thus, we ask for the following:
   - the adoption and practice in urgent procedure terms of the Law of Cults that is to modify the legal framework set in 1948;
   - the respect and application of the "restitutio in integrum" principle, both in legislation and the practice of justice;
   - ensure the victims of intolerance and discrimination based on religion, physical or legal persons, the benefit of an effective recourse;
   - the promotion of tolerance and non-discrimination in religion and the belief in school and university programs;
   - the analysis of possibilities to include the attributions of the People's Advocate,

the counselling function on the respect of religious and cultural rights with extension towards the protection of liberty of though and conscience;
- offering on a large scale, especially to persons meant to protect the right to religious freedom (parliamentarians, magistrates, lawyers, public clerks) of information and norms defined by the Declaration for the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief - 1981.